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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/685,052	10/14/2003	Nemat Akbar	018220.000034	5707

7590 06/30/2006

PATTON BOGGS, LLP

IP Department  
2001 Ross Avenue  
Suite 3000  
Dallas, TX 75201

EXAMINER
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PENG, KUO LIANG

ART UNIT	PAPER NUMBER
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1712

DATE MAILED: 06/30/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

**Application No.**

10/685,052

**Applicant(s)**

AKBAR ET AL.

**Examiner**

Kuo-Liang Peng

**Art Unit**

1712

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 5/1/06 RCE.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-46 is/are pending in the application.
- 4a) Of the above claim(s) 17-46 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-9 and 11-15 is/are rejected.
- 7) ☒ Claim(s) 10, 16 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All   b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

### **DETAILED ACTION**

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on May 19, 2006 has been entered. Claims 10 and 16 are amended. Claims 17-46 are withdrawn. Now, Claims 1-16 are pending.

2. Claim rejection(s) under 35 USC 112 in the previous Office Action (Paper No. 012106) is/are removed.

3. Claim rejection(s) under 35 USC 102 and 103 in the previous Office Action (Paper No. 012106) is/are removed.

Patel (US 5 691 067) discloses a composition comprising a silicone resin, a PTFE, etc. (col. 2, lines 20-33, col. 3, lines 59-65, col. 4, lines 46-51 and Examples) The amount of PTFE is described in col. 4, lines 46-51 and in Coating 10, Coating 18, etc. However, Patel does not teach or fairly suggest the use of an addition-cured silicone polymer. It is noted that an addition-cured silicone polymer

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contains the linkages (silylalkylene) derived from Si-H and Si-alkenyl groups, while Patel's cured polymer is prepared from Dow Corning 6-2230 or SY-430, which contains the linkages (siloxane) derived from **Si-OH** and another Si-OH groups (col. 5, lines 26-34 and col. 7, lines 56-60). It is noted that Patel does not even teach any methyl **vinyl** silicone polymer.

Beale (US 2003/0047838) teaches the use of a blend of a polysiloxane and PTFE for making flexible bakeware. ([0007], [0021], [0029], [0037] and [0042]) However, Beale does not teach or fairly suggest the use of the PTFE in an amount set forth in the present invention. Especially, in the specification ([0075]) which is further supported by the Affidavit filed on May 1, 2006, Applicants indicate that when the amount of PTFE is higher than about 15 wt% in the present invention, the flexible bakeware exhibits unexpected results such as less favorable food release properties (i.e., worse food release characteristics than formulations in which PTFE is not included), problems with mold release, etc., which is in contradictory to the results one would expect from incorporation of PTFE in view of its known excellent release properties and relatively low coefficient of friction.

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4. The following Office action is based on the newly discovered references, Martellato (US 2002/0171027) and Kabayashi (US 5 428 097). Examiner apologizes for causing any inconvenience.

### ***Double Patenting***

5. Rejections of Claims 1-16 under double patenting are maintained because the rejections are adequately set forth in paragraphs 3-6 of Paper No. 061105. Applicant's arguments have been fully considered but they are not persuasive. The focus argument related to the core patentability is discussed below. Applicants request that the rejections be held in abeyance.

### ***Claim Rejections - 35 USC § 103***

6. Claims 1-9 and 11-15 are rejected under 35 USC 103(a) as being unpatentable over Martellato (US 2002/0171027) in view of Kobayashi (US 5 428 097).

For Claims 1-2, 4-9 and 11-15, Martellato teaches a flexible bakeware apparatus made of silicone material so that the bakeware apparatus is found in the applications at both **extremely low temperatures** for refrigeration and **very high temperatures**. ([0002]) Martellato is silent on the specific silicone material used.

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However, Kobayashi teaches an addition-cured silicone rubber composition (Abstract, col. 1, line 61 to col. 2, line 46 and col. 3, line 62 to col. 4, line 20) containing a fluorine resin powder in an amount described in col. 2, lines 9-22 and Examples. The motivation of using Kobayashi is to afford a molding composition with **good processability, good molding properties** and good resistance to both **heat and cold**. (Abstract and col. 1, lines 13-34) In light of the benefit mentioned, it would have been obvious to one of ordinary skilled in the art at the time of the invention was made to utilize Kobayashi's composition for preparing Martellato's flexible bakeware apparatus. Should Applicants argue that Kobayashi is a non-analogous art for the purpose of rejection, Applicants are referred to MPEP 2141.01(a) which states that a reference may be relied on as a basis for rejection of an applicant's invention if it is "reasonably pertinent to the particular problem with which the inventor is concerned." A reasonably pertinent reference is further described as one which "even though it may be in a different field from that of the inventor's endeavor, it is one which, because of the matter with which it deals, logically would have commended itself to an inventor's attention in considering his problem." Therefore, although Kobayashi is from different fields than that of the current application, it discloses a silicone rubber composition with **good processability, good molding properties** and good resistance to both **heat and**

**cold**, which is especially pertinent to the invention at hand. The silicone composition are exemplified in Kobayashi's Application Examples. Kobayashi further teaches the use of ground quartz. (col. 4, lines 21-43) Kobayashi teaches the use of chloroplatinic acid. (col. 3, line 62 to col. 4, line 15) The amount of the silicone hydride is exemplified in Examples. For Claim 3, Kobayashi teaches the use of a platinum catalyst. (col. 3, line 62 to col. 4, line 15) Kobayashi is silent on the specific amount of the platinum catalyst set forth in the instant claim. However, the platinum catalyst amount will affect the curing rate. In other words, the platinum catalyst amount is a Result-Effective variable. Therefore, it would have been obvious to one of ordinary skilled in the art at the time of the invention was made to utilize a platinum catalyst in whatever amount through routine experimentation in order to afford a composition with desired curing rate. Especially, Applicants do not show the criticality of the amount of the platinum catalyst. See MPEP 2144.05 (II).

7. Claims 10 and 16 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

None of the above references, taken alone or in combination, teaches or fairly suggest the use of the specific high vinyl silicone gum set forth in the instant claims.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kuo-Liang Peng whose telephone number is (571) 272-1091. The examiner can normally be reached on Monday-Friday from 8:30 AM to 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Randy Gulakowski, can be reached on (571) 272-1302. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



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klp

June 15, 2006



Kuo-Liang Peng  
Primary Examiner  
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